

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

DAPHNE NOBLE FREE	§ § § § § § § § § §	CIVIL ACTION NO.
V.		JURY DEMANDED
ALLSTATE INDEMNITY COMPANY		NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §1441(a)

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Please take notice that, pursuant to 28 U.S.C. § 1441 and 1446, Allstate Indemnity Company, Defendant herein and removes to this Court the state court action pending in the 217th Judicial District Court of Angelina County, Texas (215 East Lufkin Avenue, 2nd floor, Room 210, Lufkin, Texas 75902) invoking this Court's diversity jurisdiction, on the grounds explained below.

1. On June 21, 2017, Plaintiff filed suit in Angelina County against the Defendant. The suit was assigned to the 217th Judicial District Court, Angelina County, Texas, styled Cause No. CV-00412-17-06; *Daphne Noble Free vs. Allstate Indemnity Company*. Defendant was served/received notice of this suit on August 21, 2017. As required by 28 U.S.C. § 1446(b), this notice of removal is timely filed by the Defendant within thirty (30) days following receipt by Defendant of the initial pleadings.

2. Removal of this action is proper because this Court has original diversity jurisdiction under 28 U.S.C. § 1332 and the action is one that may be removed by Defendants pursuant to 28 U.S.C. § 1441(b); specifically, this is a civil action wherein the

matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and the Defendant is diverse in citizenship from Plaintiff.

3. There is complete diversity among the parties as required by 28 U.S.C. § 1332(a). Plaintiff is a citizen of Texas. Defendant is not a citizen of the State of Texas. Defendant, Allstate Indemnity Company, is foreign organization incorporated pursuant to the laws of the State of Illinois and does not have its principal place of business in the State of Texas. The Defendant consents to removal of this case to Federal Court.

4. The amount in controversy exceeds \$75,000.00 as required by 28 U.S.C. § 1332 (a). Plaintiff's Original Petition recites that she is seeking actual damages, statutory damages, attorney's fees, mental anguish, treble damages, and pre and post judgment interests for breach of contract, violations of the Deceptive Trade Practices Act, Chapter 541 and 542 of the Texas Insurance Code, Texas Business and Commerce Code, and Texas Administrative Code, breach of duty of good faith and fair dealing relating to the Defendant's alleged failure to properly adjust the claim for Plaintiff's alleged vandalism which purportedly resulted in loss of her home and personal belongings. Further, Plaintiff's Petition states Plaintiff is seeking monetary relief pursuant to Rule 47(c)(2) of the Texas Rules of Civil Procedure. Rule 47(c)(2) relates to parties seeking monetary relief of \$100,000 or less. TEX. R. CIV. P. 47(c)(2). Thus, Plaintiff's Petition shows on its face, that Plaintiff's claims are in excess of \$75,000.00. *See* Plaintiff's Petition incorporated herein under Exhibit "A".

5. The Clerk's full record in this case, along with the index and certified copy of the state court case summary, is attached as Exhibit "A". A list of all Counsel of Record is attached as Exhibit "B". The Civil Cover Sheet is attached as Exhibit "C".

6. Venue is proper in this district because the district and division embrace the place where the removal action has been pending.

7. Defendant will promptly provide written notice of the filing of this Notice of Removal to all parties and to the clerk of the 217th Judicial District Court, Angelina County, Texas

8. Defendant respectfully requests that the state court action be removed and placed on this Court's docket for further proceedings. Defendant further requests any additional relief to which it may be justly entitled.

DATE: September 20, 2017.

Respectfully submitted,

/s/ John M. Causey

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**ATTORNEYS FOR DEFENDANT
ALLSTATE INDEMNITY COMPANY**

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that a true and correct copy of the foregoing instrument has been delivered to all interested parties on September 20, 2017, via e-filing addressed to:

Mike Love
Mike Love & Associates, L.L.C.
202 E Lufkin Ave
Lufkin, Texas 75901
mikelove@texaslawoffice.com

/s/ John M. Causey

John M. Causey